

ORDINANCE NO. _____, SERIES 2008

**AN ORDINANCE RELATING TO METHAMPHETAMINE
CONTAMINATED PROPERTY, PUBLIC NUISANCES, AND THE
PROPERTY MAINTENANCE CODE.**

Sponsored By: Councilwoman Vicki Welch, Councilman Rick Blackwell

WHEREAS, properties contaminated with hazardous chemical residues created by the manufacture of methamphetamine endanger members of the public where properties are not decontaminated prior to the subsequent occupancy, sale, rental, or other use of the property; and

WHEREAS, it is the expressed intent of the Property Maintenance Code to ensure the public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises.

WHEREAS, owners of property bear responsibility under the law to maintain property in a manner that does not harm the health, safety, and welfare of members of the public and to take reasonable steps to prevent their property from becoming a public nuisance.

**BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS
FOLLOWS:**

SECTION I: Louisville Metro Code of Ordinances §156.005 DEFINITIONS is amended to include: **Methamphetamine Contaminated Property:** Any structure or premises which has been identified through scientific evidence by law enforcement; or federal, state, or local government health department; or federal, state or local government agency for environmental protection; to be contaminated with chemical residues as a result of the manufacture of methamphetamine, when such property has not been

decontaminated. For the purposes of this chapter, methamphetamine contamination renders a property to be unsanitary; unsafe and unfit for human habitation, occupancy, or use; and dangerous to life, health or safety.

SECTION II: Louisville Metro Code of Ordinances §156.057 is Amended as follows:

§ 156.057 PUBLIC NUISANCE.

(A) *Criminal activity as a public nuisance.*

(1) *Definitions.* For the purposes of this section, *PUBLIC NUISANCE* shall mean any Methamphetamine Contaminated Property or; a premises or place where law enforcement officers have, on more than one occasion in the preceding 12-month period, criminally cited or arrested persons ~~or executed court issued search warrants~~ for violations of the law governing prostitution, gambling, trafficking in any controlled substances, or any felony offense provided under Kentucky Revised Statutes Chapter 218A, ~~alcohol or gambling.~~

(2) *Unlawful use of property.* No owner of residential, commercial or vacant property located in Louisville Metro shall allow his or her property to be used as the site for any public nuisance after having received notice pursuant to this chapter that the property has been used for the commission of a public nuisance. A legal or equitable owner of such property is deemed to have knowledge of such activity upon receipt of the notice as set forth in this chapter.

(a) No person or owner shall destroy, remove or deface any order or notice posted by the code official.

(b) No person or owner shall disobey any order issued by the Code Official, or use or occupy or permit any other person to use or occupy any premises ordered closed by the Code Official.

(3) *Duties of Louisville/Jefferson County Metro Government Agencies*

(a) *Duty of Police.* The Louisville Metro Police Department shall ~~as soon as possible but not less than every 30 days~~ no later than 30 days after criminally citing or arresting persons ~~or executing court issued search warrants~~ for violations of the law governing prostitution, gambling, trafficking in any controlled substances or any felony offense provided under Kentucky Revised Statutes Chapter 218A, ~~alcohol or gambling~~ notify the Code Official in writing of the specific violation investigated, the address of the property on or in which the violations occurred, and the circumstances of the violation.

(b) Duties of Local Health Department. Immediately upon receipt of a report that a methamphetamine contamination notice has been posted on a property and upon a finding by scientific testing that the property is contaminated with chemical residues as a result of the manufacture of methamphetamine, the Louisville Metro Public Health and Wellness Department shall immediately notify the Code Official responsible for enforcement of this chapter by fax or e-mail. .

(4) *Notice.* Whenever the Code Official receives information that a public nuisance exists in or upon residential, commercial or vacant property, he shall notify the

owner that the property is a public nuisance and that the public nuisance must be abated. Such notice shall be provided as set forth in this chapter. Provided, however, that when notice is mailed, it shall be mailed by certified mail, return receipt requested.

(5) *Abatement.* Should the public nuisance not be abated at the time stated in the notice, or any extension granted by the hearing officer(s), the Code Official shall be authorized at any time thereafter to issue an order closing and vacating the premises to the extent necessary to abate the public nuisance. Such closing and vacating shall be for such period as the Code Official reasonably may direct, but in no event shall the closing and vacating be for a period of more than one year from the date of the closing. A closing and vacating ordered by the Code Official, pursuant to this subchapter is not an act of possession, ownership or control by the Metro Government. A close and vacate order of the Code Official will be rescinded within 14 days of an abatement unless such premises is the site of repeated close and vacate orders.

(a) If the premises consist of multi-unit dwellings or mixed uses and the public nuisance has occurred solely within a unit or units, the authority to close and vacate is restricted to the unit or units in which the public nuisance has occurred, and does not extend to any other unit in the premises.

(b) Upon the issuance of any order provided for in this section, a copy of the order shall be served on the owner of the property in the same manner as the notice provided for in this chapter, and a copy shall be conspicuously posted on the property.

(c) If any person or owner fails to comply with an order to close and vacate issued pursuant to this subsection, the Code Official may:

1. Discontinue the furnishing of utility service by Metro Government to the premises at which the nuisance exists;

2. Prohibit the furnishing of utility service, to include but not limited to gas, electric, water, and heating oil, to the premises by any public utility holding a franchise to use the streets and public ways of the Metro Government;

3. Revoke the certificate of occupancy of the premises; or

4. Use any other legal remedy available under the laws of the state.

(d) Pursuant to the provisions KRS 381.770, the Metro Government shall possess a lien against the property for all fines, penalties, charges and fees imposed and for the reasonable value of labor and materials used to abate the public nuisance. The lien shall be superior to and have priority over all other liens on the property except state, Metro Government, school board and Metro Government taxes, and may be enforced by judicial proceeding.

(6) *Eviction as a defense.*

(a) It shall be a defense to a violation of this section if the owner has instituted an eviction proceeding within 30 days against the offending tenant and all occupants of the premises, and completes the eviction within 75 days of commencement or as soon thereafter as court procedures allow. In the event that

judicial or quasi judicial proceedings prohibit an owner from proceeding with an eviction, abatement of the public nuisance by eviction will be stayed until the judicial or quasi-judicial proceeding is resolved.

(b) In the case of multi-unit dwellings, the only parties necessary to name in an eviction proceeding are the occupants of the actual unit involved with the activity suspected, or the occupants suspected of the activity described in the notice.

~~(7)~~ Other defenses. It shall be a defense to a violation of this section if
the violations described in subsection (A)(1) of this section:

- (a) were committed by persons other than the owner, his/her employees, agents, or lessees AND
- (b) upon such time as the owner knew or should have known of the violations reasonable steps were taken to abate the violations by removing the offender, notifying police of the violation(s), or securing vacant property.

~~(7)~~ (8) *Relief from order.* The Code Official may vacate or suspend the provisions of an order to close and vacate upon a showing by clear and convincing evidence that the public nuisance has been abated and will not be maintained or permitted in any unit of the premises.

~~(8)~~ (9) *Abatement actions not in violation of law.* Actions taken by an owner to abate a public nuisance as defined in this section shall not be deemed to be violations of Fair Housing or Landlord-Tenant laws.

SECTION III: This ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Jim King
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____

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